

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DAVID McCUTCHEON,

Plaintiff,

v.

UNITED STATES OF AMERICA DEPARTMENT  
OF INTERIOR, National Parks Service,  
DAVID L. BERNHARDT, SECRETARY OF THE  
UNITED STATES DEPARTMENT OF INTERIOR,

Defendants.

No. 20 Civ. 10616 (GHW) (DCF)

**DECLARATION OF DAVID E. FARBER IN SUPPORT OF DEFENDANTS’  
MOTION TO PARTIALLY DISMISS THE COMPLAINT**

DAVID E. FARBER, pursuant to 28 U.S.C. § 1746, hereby declares as follows:

1. I am an Assistant United States Attorney at the United States Attorney’s Office for the Southern District of New York. I am counsel of record for Defendants United States Department of the Interior and Debra Haaland, Secretary of the Interior, in the above-captioned action. I submit this declaration in support of their Motion to Partially Dismiss the Amended Complaint filed by Plaintiff David McCutcheon, and to provide copies of agency documents as provided to this Office.

2. Attached as Exhibit 1 is a true and correct copy of the National Park Service Acceptance Letter of Plaintiff’s Equal Employment Opportunity (“EEO”) Formal Complaint of Discrimination, Case No. DOI-NPS-13-0274, dated August 20, 2013.

3. Attached as Exhibit 2 is a true and correct copy of Plaintiff’s Withdrawal of his Formal Complaint of Discrimination in Case No. DOI-NPS-13-0274, dated December 16, 2013.

4. Attached as Exhibit 3 is a true and correct copy of an Order Entering Judgment and Decision on Agency Motion for Summary Judgment issued by an EEOC administrative

judge, dated April 1, 2016, regarding Plaintiff's EEO Formal Complaint of Discrimination, Case No. DOI-NPS-14-0113.

5. Attached as Exhibit 4 is a true and correct copy of the Final Agency Decision issued by the Department of Interior's Office of Diversity, Inclusion and Civil Rights, dated April 14, 2021, regarding Plaintiff's formal complaint in Case No. DOI-NPS-19-0730.

6. Attached as Exhibit 5 is a true and correct copy of Plaintiff's EEO Formal Complaint of Discrimination, Case No. DOI-NPS-19-0730, dated October 6, 2019.

7. Attached as Exhibit 6 is a true and correct copy of the National Park Service Amended Notice of Acceptance Letter of Plaintiff's EEO Formal Complaint of Discrimination, Case No. DOI-NPS-19-0730, dated February 11, 2020.

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I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York  
December 20, 2021

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*/s/ David E. Farber*  
DAVID E. FARBER